

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION**

**MDL No. 2724
Case No. 2:16-MD-2724**

THIS DOCUMENT RELATES TO:

Direct Purchaser Plaintiffs' Actions

HON. CYNTHIA M. RUFE

**FINAL ORDER AND JUDGMENT REGARDING
DPPS' APOTEX SETTLEMENT**

AND NOW, this 15th day of October 2024, upon consideration of Direct Purchaser Plaintiffs' Motion for Final Approval of (1) Direct Purchaser Plaintiffs' Apotex Settlement and (2) the Plan of Allocation [MDL Doc. No. 3067], and Direct Purchaser Plaintiffs César Castillo, LLC, FWK Holdings, LLC, Rochester Drug Cooperative, Inc., and KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. ("DPPs") and Defendant Apotex Corp. ("Settling Defendant") having entered into a Settlement Agreement to fully and finally resolve the Settlement Class's claims against Settling Defendant,¹ and the Court having held a hearing in open court on September 23, 2024, and for the reasons stated in the Memorandum Opinion entered this date, it is hereby **ORDERED** that the Motion is **GRANTED** and:

1. The Preliminary Approval Order dated February 13, 2024 [MDL Doc. No. 2841] certified the following Settlement Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3):

All persons or entities, and their successors and assigns, that directly purchased one or more of the Named Generic Drugs from one or more Current or Former

¹ Unless otherwise noted, the capitalized terms used in this Order have the same meanings as defined in the Settlement Agreement. *See* MDL Doc. No. 2781-3, Ex. A thereto.

Defendants in the United States and its territories and possessions, at any time during the period from May 1, 2009 until December 31, 2019.

Excluded from the Settlement Class are Current and Former Defendants and their present and former officers, directors, management, employees, subsidiaries, or affiliates, judicial officers and their personnel, and all governmental entities.

2. Pursuant to Federal Rule of Civil Procedure 23, and for the reasons stated in the Court's Memorandum Opinion, the Court finds that the Settlement Agreement between DPPs and Settling Defendant is fair, reasonable and adequate and approves the Settlement Agreement in its entirety.

3. The Court finds that the dissemination of the Notice via first-class mail, publication, and the establishment and maintenance of a dedicated website were implemented in accordance with the Order granting preliminary approval [MDL Doc No. 2843], and satisfies the requirements of Federal Rules of Civil Procedure 23(c)(2)(B) and 23(e), the United States Constitution and other applicable laws and rules, and constituted the best notice practicable under the circumstances.

4. The persons and entities identified in Exhibit A, which is attached hereto and incorporated by reference herein, have timely and validly requested exclusion from the Settlement Class, or have otherwise been permitted to seek exclusion by this Court, and are hereby excluded from the Settlement Class, are not bound by this Final Judgment, and may not make any claim or receive any benefit from the Settlement, whether monetary or otherwise. Said excluded persons and entities may not pursue any claims released under the Settlement Agreement on behalf of those who are bound by this Final Judgment. Each Settlement Class Member not appearing in Exhibit A is bound by this Final Judgment and will remain forever bound.

5. DPPs' claims against Settling Defendant are dismissed, with prejudice and in their entirety, and except as provided for in the Settlement Agreement, without costs, as to Settling Defendant. This dismissal shall not affect, in any way, the rights of DPPs or members of the Settlement Class to pursue claims not released by the Settlement Agreement.

6. DPPs and all members of the Settlement Class (on behalf of themselves and their respective past and present parents, subsidiaries, and affiliates, as well as their past and present general and limited partners, officers, directors, employees, agents, attorneys, servants, predecessors, successors, heirs, executors, administrators, and representatives) ("Releasors") agree to dismiss Settling Defendant (and its past and present parents, subsidiaries, divisions, affiliates, stockholders, and general or limited partners, as well as their past and present respective officers, directors, employees, trustees, insurers, agents, attorneys, and any other representatives thereof) (the "Releasees"), except that this release shall not apply to any present or former officer, director, employee, trustee, insurer, agent, attorney, or other representative of the Settling Defendant who does not cooperate with DPPs, to the extent required and able to do so, pursuant to the Cooperation Agreement and Paragraph 10 of the Settlement Agreement. And as further provided under Settlement Class Counsel's reservation of rights in Paragraph 14 of the Settlement Agreement, this Final Order and Judgment does not release any non-settling Defendant's liability in the Action, nor does it absolve Settling Defendant's present or former officers, directors, employees, trustees, insurers, agents, attorneys, or other representatives from their duty to cooperate in discovery in their capacity as a current or former officer, director, employee, trustee, insurer, agent, attorney, or other representative for other, non-settling Defendants. Subject to these exceptions and reservation of rights, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands,

actions, suits, causes of action, whether class, individual, or otherwise in nature (whether or not any Settlement Class member has objected to the Settlement or makes a claim upon or participates in the Settlement Fund, whether directly, representatively, derivatively or in any other capacity) that DPPs and the Settlement Class, or each of them, ever had, now has, or hereafter can, shall, or may have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual, contingent, or joint and several, liquidated or unliquidated claims, injuries, damages, and the consequences thereof in any way arising out of, or relating in any way to, any of the claims in the Action, whether actual or alleged, from the beginning of the world up to the date of execution of the Settlement Agreement, including any conduct alleged, and causes of action asserted or that could have been alleged or asserted, based upon the allegations in the Action, relating to the Named Generic Drugs, all formulations and strengths of those drugs, or any other generic drugs that could have been named based on the facts alleged in the Action or any overarching conspiracy, including but not limited to those arising under any federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, or trade practice law (the “Released Claims”). The release of Released Claims shall not preclude DPPs from pursuing any and all claims against other defendants for the sale of the Named Generic Drugs or other generic drugs sold by those defendants or their alleged co-conspirators. Nothing herein, and nothing in Paragraph 13 of the Settlement Agreement, shall release any claims (a) arising in the ordinary course of business between Releasors and the Releasees arising under Article 2 of the Uniform Commercial Code (pertaining to sales), other than claims based in whole or in part on any of the Released Claims; (b) for the indirect purchase of any of the Named Generic Drugs or any other generic drugs; (c) for negligence, breach of contract, bailment, failure to deliver, lost goods, damaged or delayed

goods, breach of warranty, or product liability claims between any of the Releasees and any of the Releasers relating to any of the Named Generic Drugs or any other generic drugs, other than claims based in whole or in part on any of the Released Claims; (d) as to any generic drug, including any of the Named Generic Drugs, that is currently the subject of any unrelated pending litigation against Settling Defendant that is not part of the Action; (e) as to any generic drug, including any of the Named Generic Drugs, that is, after the date of the Settlement Agreement, the subject of any unrelated litigation brought against Settling Defendant under federal or state antitrust laws or under RICO where the allegation is that generic competition was delayed (e.g., reverse payment, sham litigation, sham citizen petition, or “Walker Process” fraud cases) or otherwise reduced or impaired by alleged conduct other than that pled or based in whole or in part on the facts alleged in the DPPs’ complaints in the Action; (f) for any claims of any type relating to any drugs other than the Named Generic Drugs, other than those pled or based on the facts alleged in the DPPs’ complaints in the Action. DPPs and the Settlement Class shall not seek to establish liability against any Releasee based, in whole or in part, upon any of the Released Claims or conduct at issue in the Released Claims.

7. DPPs and each member of the Settlement Class hereby expressly waives and releases any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code, which reads:

**SECTION 1542. GENERAL RELEASE—CLAIMS EXTINGUISHED.
A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

DPPs and each member of the Settlement Class also hereby expressly waives and releases any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. DPPs and each member of the Settlement Class may hereafter discover facts other than or different from those that it knows or believes to be true with respect to the claims that are the subject of this Paragraph, but DPPs and each member of the Settlement Class have agreed that as of the December 22, 2023, they expressly waive and fully, finally, and forever settle and release as to the Releasees all known or unknown, suspected or unsuspected, accrued or unaccrued, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. For the avoidance of doubt, DPPs and each member of the Settlement Class also hereby agrees that, they expressly waive and fully, finally, and forever settle and release any and all claims that would otherwise fall within the definition of Released Claims it may have against any of the Releasees under § 17200, et seq., of the California Business and Professions Code or any similar, comparable, or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are hereby expressly incorporated into the definition of Released Claims.

8. This Final Judgment does not settle or compromise any claims by DPPs or the Settlement Class against any person or entities other than the Released Parties, and all rights against any other Defendant or other person or entity are specifically reserved.

9. Without affecting the finality of this Final Judgment, the Court retains exclusive jurisdiction over the Action and the Settlement Agreement, including the administration, interpretation, consummation, and enforcement of the Settlement Agreement.

10. Pursuant to Federal Rule of Civil Procedure 54(b), the Court finds that there is no just reason for delay and hereby directs the entry of this Final Judgment of dismissal forthwith as to the Released Parties.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.

EXHIBIT A

ENTITIES EXCLUDED FROM THE SETTLEMENT

1. Humana, Inc.
2. Humana Pharmacy, Inc.
3. United HealthCare Services, Inc.
4. OptumRx, Inc.
5. OptumRX Group Holdings, Inc.
6. OptumRx Holdings, LLC
7. Kroger
8. The Kroger Co.
9. Kroger Limited Partnership I
10. Kroger Limited Partnership II
11. KRGP, Inc.
12. Kroger Texas L.P.
13. The Kroger Co. of Michigan
14. Baker's
15. City Market
16. Copps Food Center
17. Dillon
18. Dillon Companies, Inc.
19. FMJ, Inc.
20. Food 4 Less
21. Food 4 Less Holdings, Inc.
22. Fred Meyer
23. Fred Meyer, Inc.
24. Fred Meyer Jewelers, Inc.
25. Fred Meyer Stores, Inc.
26. Fry's
27. Gerbes
28. Harris Teeter
29. Harris Teeter, Inc.
30. Harris Teeter, LLC
31. Healthy Option, Inc.
32. Home Chef
33. Jay C Food Stores
34. Junior Food Stores of West Florida, Inc.
35. Kessel
36. Kessel Food Markets, Inc.
37. King Soopers
38. Kiosk Medicine Kentucky, LLC
39. Mariano's Fresh Market
40. Matthews Property 1, LLC

41. Metro Market
42. Owen's
43. Owen's Supermarket
44. Pick 'n Save
45. Pay Less Super Markets
46. Peyton's
47. Peyton's Fountain
48. Peyton's Mid-South Company
49. Peyton's Northern
50. Peyton's Phoenix
51. Peyton's-Southeastern, Inc.
52. Postal Prescription Services
53. QFC
54. Ralphs
55. Ralphs Grocery Company
56. Roundy's Inc.
57. Ruler Foods
58. Scott's Foods
59. Scott's Pharmacy
60. Shop-Rite, LLC
61. Sunrise R&D Holding, LLC
62. Sunrise Technology LLC
63. Smith's
64. Smith's Food & Drug Centers, Inc.
65. TLC Corporate Services LLC
66. Albertsons
67. Albertson's, Inc.
68. Albertsons LLC
69. Albertsons Companies LLC
70. Albertsons Companies, Inc.
71. Albertsons Market
72. Acme Markets
73. American Stores Company
74. American Drug Stores
75. Andronico's
76. Andronico's Community Markets
77. Balducci's Food Lover's Markets
78. Company Amigos United
79. Carr-Gottstein Foods Co.
80. Dominick's
81. Dominick's Finer Foods, LLC
82. Extreme Value
83. Extreme Value Centers

84. Foods Pavilion
85. Genuardi's
86. Genuardi's Family Markets LP
87. Haggen
88. Haggen Food & Pharmacy
89. Jerseymaid Milk Products
90. Jewel Foods
91. Jewel Foods, Inc.
92. Jewel Food Stores
93. Jewel-Osco Pharmacy
94. Kings Food Markets
95. Lawrence Brothers
96. Lawrence Brothers Co.
97. Lawrence Brothers Pharmacy
98. Lucerne Foods, Inc.
99. Lucky Stores (Utah locations)
100. Market Street
101. New Albertson's Inc.
102. New Albertsons L.P.
103. Osco Drugs
104. Pak 'N Sav
105. Paul's Market
106. Pavilions Place Randall's
107. Randall's Food & Drugs LP
108. Raley's of New Mexico
109. Safeway
110. Safeway Inc.
111. Safeway Food & Drug
112. Sav-On Drug
113. Shaw's Supermarkets, Inc.
114. Simon David
115. Star Market
116. Super Saver Foods
117. The Vons Companies, Inc.
118. Tom Thumb Food & Drugs
119. United Express
120. United Supermarkets
121. United Supermarkets, LLC
122. Vons
123. Vons Grocery Company
124. Walgreen Company
125. Walgreen
126. Walgreens

127. Walgreen Co.
128. Alliance
129. Alliance BMP
130. Alliance Boots
131. Alliance Healthcare
132. Alliance Rx Walgreens Prime Pharmacy
133. Alliance Santé
134. Alliance UniChem
135. Bowen Development
136. Burrells
137. Burrells Limited
138. Cystic Fibrosis Services
139. Cystic Fibrosis Services Inc.
140. Cystic Fibrosis Services LLC
141. Duane Reade
142. Duane Reade, Inc.
143. Globe Stores
144. Green Hills Insurance
145. Happy Harry's
146. Happy Harry's Inc.
147. Happy Harry's Discount Drug Stores, Inc.
148. Infinity Infusion
149. Kerr Drug
150. May's Drug Stores
151. May's Drug Stores, Inc.
152. Medicenter
153. Med-X
154. Med-X Corporation
155. Prime Therapeutics Specialty Pharmacy
156. Prime Therapeutics Specialty Pharmacy LLC
157. Riviera Brands
158. S&W Pharmacy
159. S & W Pharmacy, Inc.
160. Super D. Drugs Acquisition Co.
161. Superior
162. Superior Holdings Limited
163. Superior Acquisitions Limited
164. Trinity Home Care
165. USA/Super D Franchising
166. USA Drug
167. J M Smith Corporation
168. J M Smith
169. Smith Drug Company

- 170. Smith Drug
- 171. Burlington Drug Company
- 172. Burlington Drug
- 173. H-E-B
- 174. H.E. Butt Grocery Company
- 175. H.E. Butt Grocery Company L.P.
- 176. Central Market
- 177. CVS Pharmacy, Inc.
- 178. CVS Health Corp.
- 179. Omnicare
- 180. Southeastern Grocers LLC
- 181. Southeastern Grocers Inc.
- 182. Winn-Dixie Stores, Inc.
- 183. Winn-Dixie Procurement, Inc.
- 184. Harveys
- 185. Sweet Bay
- 186. Fresco y Mas
- 187. Save-Rite
- 188. Bi-Lo
- 189. Bi-Lo Holding LLC
- 190. Bi-Lo LLC
- 191. Superbrand
- 192. J.H. Harvey Co., LLC
- 193. Bi-Lo Holding Finance LLC
- 194. Bi-Lo, LLC
- 195. Samson Merger Sub, LLC
- 196. Winn-Dixie Logistics, Inc.
- 197. Winn-Dixie Corporation
- 198. Bruno's Supermarkets Incorporated
- 199. Albany Area Primary Health Care, Inc.
- 200. Allina Health System
- 201. Armstrong County Memorial Hospital, d/b/a ACMH Hospital
- 202. Astera Health, f/k/a Tri-County Health Care
- 203. Augusta Health Care, Inc., d/b/a/ Augusta Health
- 204. Avera Health
- 205. Baptist Health
- 206. Baxter County Hospital, Inc., d/b/a/ Baxter Regional Medical Center
- 207. Baystate Health, Inc.
- 208. Beaufort Jasper Hampton Comprehensive Health Services, Inc.
- 209. Berkshire Health Systems, Inc.
- 210. Billings Clinic
- 211. Broad Top Area Medical Centers, Inc.

- 212. Cape Cod Healthcare, Inc.
- 213. Care New England Health System, d/b/a Care New England
- 214. CaroMont Health, Inc.
- 215. CentraCare Health System
- 216. Central Texas Community Health Centers, d/b/a/ CommUnityCare
- 217. The Chautauqua Center, Inc.
- 218. The Children's Hospital Corporation, d/b/a Boston Children's Hospital
- 219. The Children's Hospital of Philadelphia
- 220. Collier Health Services, Inc., d/b/a Healthcare Network
- 221. Community Health Center of Snohomish
- 222. Confluence Health
- 223. Conway Regional Health System
- 224. Cook County Hospital District, d/b/a North Shore Health
- 225. Cook Hospital
- 226. Crusaders Central Clinic Association
- 227. Dallas County Medical Center
- 228. The DCH Health Care Authority, d/b/a/ DCH Health System
- 229. Delta Memorial Hospital
- 230. Douglas County Hospital, d/b/a/ Alomere Health
- 231. Drew Memorial Hospital, Inc., d/b/a/ Drew Memorial Health System
- 232. Duval's Pharmacy, Inc.
- 233. East Boston Neighborhood Health Center Corporation
- 234. Ely-Bloomerson Community Hospital
- 235. Erie Family Health Center, Inc.
- 236. Essentia Health
- 237. Evangelical Community Health
- 238. Fairview Health Services
- 239. Fulton County Medical Center
- 240. Gillette Children's Specialty Healthcare
- 241. Glacial Ridge Health System
- 242. Granby Pharmacy, Inc., d/b/a Center Pharmacy
- 243. Great Lakes Bay Health Centers
- 244. Great Salt Plains Health Center, Inc.
- 245. Greater Lawrence Family Health Center
- 246. The Guthrie Clinic
- 247. Health Partners of Western Ohio
- 248. HealthPoint
- 249. Hennepin Healthcare System, Inc.
- 250. Independence Health System
- 251. Intermountain Health Care, Inc.
- 252. International Community Health Services

253. Jackson-Madison County General Hospital District, d/b/a/ West Tennessee Healthc
254. Kittson Healthcare
255. Knight Health Holdings LLC, d/b/a ScionHealth
256. Kootenai Hospital District
257. Lake Region Healthcare Corporation
258. Lakewood Health System
259. Lehigh Valley Health Network, Inc.
260. LifeCare Medical Center
261. Lifepoint Corporate Services, General Partnership
262. Lifespan Corporation
263. Logan Health
264. Longview Wellness Center, Inc., d/b/a Wellness Pointe
265. Lutheran Charity Association, d/b/a Jamestown Regional Medical Center
266. Madelia Health
267. Madison Health, f/k/a Madison Memorial Hospital
268. Madison Healthcare Services, d/b/a/ Madison Hospital
269. Main Line Health, Inc.
270. Marana Health Center, Inc.
271. Mary Rutan Hospital d/b/a Mary Rutan Health
272. Mass General Brigham Incorporated
273. Mayo Clinic
274. MedCura Health, Inc.
275. Meeker Memorial Hospital and Clinics
276. Memorial Hospital of Laramie County, d/b/a Cheyenne Regional Medical Center
277. Memorial Hospital of Sweetwater County
278. Memorial Sloan Kettering Cancer Center
279. Middlesex Health System, Inc., d/b/a Middlesex Health
280. Millcreek Community Hospital
281. Mille Lacs Health System
282. Montefiore Medical Center
283. Mount Nittany Health System
284. Mount Sinai Hospitals Group, Inc.
285. Murray County Medical Center
286. MVMEDSHOP, Inc., d/b/a/ Vineyard Scripts
287. Nationwide Children's Hospital
288. The New York and Presbyterian Hospital
289. North Big Horn Hospital District
290. North Canyon Medical Center
291. North Memorial Health Care, d/b/a/ North Memorial Health
292. North Olympic Healthcare Network

293. Northern Itasca Hospital District, d/b/a Bigfork Valley
294. Northfield Hospitals + Clinics
295. Novant Health, Inc.
296. Nuvance Health
297. NYU Langone Hospitals
298. Ochsner Clinic Foundation
299. Olmsted Medical Center
300. Ortonville Area Health Services
301. Overlake Hospital Medical Center
302. PeaceHealth
303. Peak Vista Community Health Centers
304. Penn Highlands Healthcare
305. Perham Hospital District, d/b/a/ Perham Health
306. Pikeville Medical Center, Inc.
307. Providence St. Joseph Health
308. Pueblo Community Health Center, Inc.
309. The Regents of the University of Michigan on behalf of University of
310. Regional Health Services, d/b/a/ Glencoe Regional Health
311. Ridgeview Medical Center, Inc., d/b/a Ridgeview
312. River's Edge Hospital
313. Riverview Healthcare Association
314. Roanoke Chowan Community Health Center
315. Rutherford County Primary Care Clinics, Inc., d/b/a Primary Care & Hope Clinic
316. RWJBarnabas Health, Inc.
317. Salem Community Hospital, d/b/a/ Salem Regional Medical Center
318. Sanford
319. Select Medical Corporation
320. SGOH Acquisition, Inc., d/b/a/ Ozarks Community Hospital
321. Shands Jacksonville Medical Center, Inc.
322. Shands Teaching Hospital and Clinics, Inc.
323. Shasta Community Health Center
324. Shawnee Health Service and Development Corporation
325. Sleepy Eye Medical Center
326. St. Clair Health Corp., d/b/a St. Clair Health
327. St. Luke's Health Network, Inc., d/b/a St. Luke's University Health Network
328. St. Luke's Health System, Ltd.
329. St. Luke's Hospital of Duluth
330. St. Thomas Community Health Center
331. Stamford Health, Inc.
332. Stigler Health & Wellness Center, Inc.

- 333. Syringa Hospital Districts, d/b/a/ Syringa Hospital & Clinics
- 334. Thomas Jefferson University, d/b/a/ Jefferson Health
- 335. Tri-Area Community Health
- 336. UC Health, LLC, d/b/a UC Health
- 337. UHS of Delaware, Inc.
- 338. UMass Memorial Care, Inc.
- 339. United Hospital District
- 340. University Health Systems of Eastern Carolina, d/b/a ECU Health
- 341. Upham's Corner Health Committee, Inc., d/b/a Upham's Corner Health Center
- 342. UPMC
- 343. Valley Health System
- 344. Valor Health
- 345. WakeMed d/b/a WakeMed Health & Hospitals
- 346. Welia Health
- 347. Wellpath LLC
- 348. White River Health System, Inc., d/b/a White River Medical Center
- 349. Winona Health Services